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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,980	12/30/2005	Hiroshi Yoshii	283399US0PCT	3529

22850 7590 09/15/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

SULLIVAN, DANIELLE D

ART UNIT	PAPER NUMBER
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1616

NOTIFICATION DATE	DELIVERY MODE
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09/15/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/562,980	Applicant(s) YOSHII ET AL.	
	Examiner DANIELLE SULLIVAN	Art Unit 1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23, 25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) 13-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12, 23, 25 and 26 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-23, 25 and 26 are pending. Claims 13-22 are withdrawn for being directed to a non-elected invention. Claims **1-12, 23, 25 and 26** are currently under examination.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/06/2009 has been entered.

Claim Objections

Claim 5 is objected to because of the following informalities: "sufonylurea" should be spelled as "sulfonylurea". Appropriate correction is required.

A new rejection is herein set forth in view of applicant's amendment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **1-12, 23, 25 and 26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda (US 5,830,827) in view of Anderson et al. (Alkoxylated Glyceride Emulsifiers in Agricultural Applications, 2001).

Applicant's Invention

Applicant claims an herbicidal composition comprising an herbicidal sulfonylurea compound or its salt, and an alkoxylated glyceride, wherein when said herbicidal sulfonylurea is nicosulfuron, said herbicidal composition does not contain polyoxyethylene hydrogenated castor oil. Claim 23 specifies the sulfonylurea is not nicosulfuron. Claims 2-4 and 26 further limit the alkoxylated glyceride to being selected from polyoxyethylene hydrogenated castor oil, polyoxyethylene glyceryl, etc. Claims 5, 6 and 25 limit the sulfonylurea to being selected from flazasulfuron, foramsulfuron, nicosulfuron, rimsulfuron, trifloxysulfuron and tritosulfuron. Claim 7 specifies the ratio of sulfonylurea to alkoxylated glyceride is from 16:1 to 1:6000. Claim 8 specifies the composition comprises 0.1-95 parts by weight of sulfonylurea, 0.1-94.9 parts by weight of the alkoxylated glyceride, and the rest being additives. Claim 9 further comprises one or more other herbicide compounds. Claims 10 and 12 further add a coadjuvant selected from chelating agent, fertilizer comprising nitrogen, or a combination thereof. Claim 11 further comprises one or more other herbicides and a coadjuvant.

Determination of the scope and the content of the prior art

(MPEP 2141.01)

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Maeda teaches a granular herbicidal composition comprising flazasulfuron, together with a chemical stabilizer and a carrier (coadjuvants) (abstract). If necessary the composition may further include various formulates for contributing to the improvement in the physical properties of the granular composition (column 2, lines 28-35). These formulates include nonionic surfactants such as polyoxyethylene glycerin fatty acid ester, fatty acid polyglyceride and polyoxyethylene hydrogenated castor oil (column 2, lines 51-60). The composition may contain other herbicides alone or as a mixture of two or more (column 3, line 23 through column 4, line 63). Based on 100 parts by weight the amount of flazasulfuron is from 0.02-1 parts by weight; the chemical stabilizer is 0.1-10; the carrier is from 50-99.88; and the amount of surfactants is from 0.1 to 10 parts by weight (column 5, lines 1-19).

Ascertainment of the difference between the prior art and the claims

(MPEP 2141.02)

Maeda does not disclose a specific example comprising a surfactant selected from polyoxyethylene glycerin fatty acid ester, fatty acid polyglyceride and polyoxyethylene hydrogenated castor oil. It is for this reason that Anderson et al. is joined.

Anderson et al. teach ethoxylated glycerides have long been known as effective and safe nonionic emulsifiers in agriculture. They are favorable for human and ecotoxicological profiles and are preferred whenever sensitive environments must be protected. United States Environmental Protection Agency regulations restrict the

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choices available to agricultural formulators to a single triglyceride, castor oil, on growing crop and raw agricultural commodities (abstract).

Finding of prima facie obviousness

Rationale and Motivation (MPEP 2142-2143)

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Maeda and Anderson et al. to further include a nonionic surfactant selected from polyoxyethylene hydrogenated castor oil. One would have been motivated to include these surfactants because Maeda teaches that these surfactants contribute to the improvement of the physical properties of the formulation and Anderson et al. specifies selected ethoxylated glyceride because they are favorable for human and ecotoxicological profiles and the United States Environmental Protection Agency regulations restrict to the selection of castor oil on growing crop and raw agricultural commodities. Hence, one of ordinary skill would have been motivated to select polyoxyethylene hydrogenated castor oil in order to comply with federal regulations and safety.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIELLE SULLIVAN whose telephone number is (571)270-3285. The examiner can normally be reached on 7:30 AM - 5:00 PM Mon-Thur EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on (571) 272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Danielle Sullivan
Patent Examiner
Art Unit 1616

/Mina Haghighatian/
Primary Examiner, Art Unit 1616